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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,791	05/09/2001	Hiroshi Kutsumi	MTS-3257US	3296

7590 10/19/2004

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EXAMINER

POND, ROBERT M

ART UNIT PAPER NUMBER

3625

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/851,791

Applicant(s)

KUTSUMI ET AL. 

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5,6 and 28 is/are pending in the application.
- 4a) Of the above claim(s) 1-4, 7-27 and 29-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,6 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group V in the reply filed on 22 July 2004 is acknowledged.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 17 May 2000. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

### ***Specification***

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
4. Applicant is reminded of the proper language and format for an abstract of the disclosure. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The

form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 5. Claims 5, 6, and 28 are rejected under 35 USC 102(b) as being anticipated by Whiteis (patent number 5,749,081).**

Whiteis teaches all the limitations of Claims 5, 6, and 28. For example, Whiteis discloses a system and method for assisting a consumer in selecting items from a master list of available items and recommending items from the master list based on the input list of favored items, the recommended items having a high probability of appeal to the consumer. Whiteis discloses each use

by the consumer increases the accuracy of the system (see at least abstract; Fig. 1 (1, 2, 3); col. 1, lines 64 through col. 2, line 36). White is further discloses:

- Recommended contents are output by output means: sort and display results; update "links" table, update "linksto" table (see at least Fig. 1 (3); col. 5, line 25 through col. 6, line 44).
- Checking access history of the user: checks items previously sampled by the user (see at least col. 1, line 64 through col. 2, line 15).
- Number of registration times: based on number of times items appeared linked together (item currently or previously sampled) (see at least col. 2, lines 8-15; col. 3, lines 19-23); numerical value created by the summing the link weights for each of the matches (see at least Fig. 9 (351); col. 3, line 24 through col. 4, line 27; col. 3, lines 52-55).
- Content registration: content exists and is searched as noted above (please note examiner's interpretation: content is registered).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- US 5,872,850 (Klein et al.) 16 February 1999; teaches an item recommendation system and method.
- US 6,212,545 (Ohtani et al.) 03 April 2001; teaches a distributed search system and method for recommending item.
- US 6,006,225 (Bowman et al.) 21 December 1999; teaches a search engine which suggest related items to the user to allow the user to refine a search; reflects frequency with which specific terms have previously appeared within the same query.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

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or faxed to:

703-872-9306 (Official communications; including After Final  
communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal  
Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

A handwritten signature in black ink, appearing to read 'R. M. Pond', written in a cursive style.

Robert M. Pond  
Patent Examiner  
October 5, 2004